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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/834,856	04/12/2001	Adam D. Sah	10760-85602	5570
23838 7590 05/08/2009 KENYON & KENYON LLP 1500 K STREET N.W. SUITE 700 WASHINGTON, DC 20005				
EXAMINER CZEKAJ, DAVID J				
ART UNIT		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

09/834,856

**Applicant(s)**

SAH, ADAM D.

**Examiner**

DAVID CZEKAJ

**Art Unit**

2621

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 23-27, 30-37, 39-41, 43, 46, 47 and 49-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-27, 30-37, 39-41, 43, 46, 47 and 49-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

On pages 10-14, applicant argues that Yamaguchi fails to disclose adjusting the image parameters over time to produce a degraded image, the degradation increasing exponentially over the period of time. While the applicant's points are understood, the examiner respectfully disagrees. See for example Yamaguchi column 15, lines 10-15. There Yamaguchi discloses decreasing the resolution of the window in which the users attention is not directed. By decreasing the resolution, Yamaguchi is degrading the image over time. The first degraded frame will be exponentially decreased when compared with the higher resolution. Then the subsequent frames will further decrease the resolution or quality of the image. Thus, Yamaguchi discloses the degradation increasing exponentially over the period of time. Therefore the rejection has been maintained.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 23-27, 30-37, 39-41, 43, 46-47, and 49-52 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. Supreme Court precedent and recent Federal Circuit decisions indicate that a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or

material) to a different state or thing. While the instant claim recites a series of steps or acts to be performed, the claim neither transforms underlying subject matter nor is positively tied to another statutory category that accomplishes the claimed method steps, and therefore does not qualify as a statutory process. For example, it is unclear what performs, in electronic form, the refreshing, adjusting, receiving, and determining steps recited in the method claims.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 24-25, 28, 31-33, 37, 39-40, 43, and 47, 49-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamaguchi et al. (6400392), (hereinafter referred to as "Yamaguchi") in view of Matsumoto et al. (5524198), (hereinafter referred to as "Matsumoto").

Regarding claims 43, 31-32, 39, and 49-52 Yamaguchi discloses an apparatus that relates to a video transmitting apparatus (Yamaguchi: column 1, lines 9-12). This apparatus comprises "sending the image to the user's system" (Yamaguchi: figure 5, column 5, lines 50-67, wherein the input part sends the image, the user's system is the output part), "at a site remote from the user's system, refreshing the image periodically" (Yamaguchi: column 5, lines 50-67,

wherein the refreshing is the continuous monitoring and sending of the image to the system), "at a site remote from the user's system determining whether to degrade the image comprises whether the user is active or inactive" (Yamaguchi: column 15, lines 1-15, wherein the active or inactive determination is whether the user's attention is directed toward a window making the user active), "determining whether the user is active or inactive comprises determining whether a window displaying the image is fully visible to the user" (Yamaguchi: column 15, lines 1-15, wherein if the user's attention is directed toward the window, the window is fully visible to the user; if the user's attention is not directed towards the window, the window is not fully visible to the user), "adjusting image parameters over a period of time to produce a degraded image, the degradation increasing exponentially over the period of time to achieve a fully degrade image" (Yamaguchi: column 12, line 10 - column 13, line 12; column 15, lines 1-15, wherein the inactivity is the user not focusing attention towards a window, the degrading is the decrease in resolution or brightness), and "sending the degraded image to the user's system" (Yamaguchi: figure 5, wherein the user's system is the output part). Although Yamaguchi fails to disclose the term "degrade" as claimed, Yamaguchi does disclose a type of degrading in decreasing the resolution of the video. However, Yamaguchi fails to disclose determining whether a portion of the image is visually obstructed. Matsumoto teaches that a processing scheme in which quality and speed do not pose a problem can be applied to a window that is inactive, or visually obstructed

(Matsumoto: figures 10A and 10B; column 6, lines 35-64). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to take the apparatus disclosed by Yamaguchi and implement the quality reduction scheme taught by Matsumoto in order to obtain an apparatus that can reduce quality to parts of the image not visible to the user.

Regarding claim 24, Yamaguchi discloses "degrading the image comprises decreasing resolution of the image" (Yamaguchi: column 15, lines 10-14).

Regarding claim 25, Yamaguchi discloses "determining whether the user is active comprises determining whether a certain period of time has elapsed" (Yamaguchi: column 17, lines 9-11, wherein the period of time is the window attention time interval).

Regarding claim 28, Yamaguchi discloses "the time is measured with a timer or counter" (Yamaguchi: figure 1, wherein the timers or counters are in the CPU).

Regarding claims 33 and 40, Yamaguchi discloses "increasing the quality of the degraded image upon a determination that the user is active" (Yamaguchi: column 15, lines 10-15, wherein the activity is the user direction attention to a specific window, increasing the quality is increasing the resolution).

Regarding claim 37, Yamaguchi discloses "receiving a user request to increase the quality of the degraded image" (Yamaguchi: column 15, lines 4-15,

wherein the user request is the user specifying attention to a particular window, the increase in quality is the increase in resolution).

Regarding claim 47, although not disclosed, it would have been obvious to capture the image located remotely from the user (Official Notice). Doing so would have been obvious in order to make the system more versatile by being able to operate the system in remote locations.

3. Claims 26-27, 30, 34-36, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamaguchi et al. (6400392), (hereinafter referred to as "Yamaguchi") in view of Matsumoto et al. (5524198), (hereinafter referred to as "Matsumoto") in further view of Atick et al. (6111517), (hereinafter referred to as "Atick").

Regarding claims 26-27, note the examiners rejection for claim 43, and in addition, claims 26-27 differ from claim 43 in that claims 26-27 further require the period of time to being when the image was last refreshed and sent to the user's system. Atick teaches that prior art control systems suffer from several drawbacks such as only restricting initial access to a system (Atick: column 1, lines 32-35). To help alleviate this problem, Atick discloses "the time begins when the image was last refreshed and sent to the user's system" (Atick: column 7, lines 56-67, wherein the refreshing is the continuous monitoring and sending of the image to the user's system or computer). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the timer periods taught by Atick in order to better regulate access of critical systems.

Regarding claims 30 and 46, Atick discloses "determining whether the user is using the user's system" (Atick: column 5, lines 38-41, wherein using the system is sitting down or being within the field of view of the computer).

Regarding claim 34, Atick discloses "the step of refreshing is performed more frequently than step of determining whether to degrade" (Atick: figure 5, wherein if activity is present the image is sent a certain number of times to the computer, than no determination to degrade has happened thus making it less often).

Regarding claim 35, Atick discloses "determining whether to degrade occurs concurrently with a refresh cycle" (Atick: figures 3 and 5, wherein the degrading is the launching of the screen saver, the refresh cycle is the continual sending of the image to the computer).

Regarding claim 36, Atick discloses "the degraded image is sent to the user's system upon refresh" (Atick: column 7, lines 56-67, wherein the refreshing is the continuous monitoring and sending of the image to the system).

4. Claims 23 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamaguchi et al. (6400392), (hereinafter referred to as "Yamaguchi") in view of Matsumoto et al. (5524198), (hereinafter referred to as "Matsumoto") in further view of Sankaranarayan et al (6799208), (hereinafter referred to as "Sankaranarayan").

Regarding claim 23, note the examiners rejection for claim 43, and in addition, claim 23 differs from claim 43 in that claim 23 further requires the degrading to reduce the size of the image. Sankaranarayan teaches that fallback

can occur when displaying between systems having different resources (Sankaranarayan: column 17, lines 51-64). To help alleviate this problem, Sankaranarayan discloses "reducing the size of the image" (Sankaranarayan: column 17, lines 62-64, column 18, lines 1-17). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to take the apparatus disclosed by Yamaguchi and Matsumoto and add the reduced size image taught by Sankaranarayan in order to obtain an apparatus that operates more efficiently by avoiding a fallback condition.

Regarding claim 41, Sankaranarayan discloses "the network is the internet" (Sankaranarayan: column 6, lines 50-52).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID CZEKAJ whose telephone number is (571)272-7327. The examiner can normally be reached on Mon-Thurs and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571) 272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dave Czekaj/  
Primary Examiner, Art Unit 2621